HON'BLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION NO. 3926 OF 2007

DATE: 06.03.2007

Between:

Rajeswara Cashew Company, rep. By its partner S.Ganapathi Rao

…Petitioner

AND

1. The Regional Joint Director, Employees State Insurance Corporation, Padmanabha Buildings and one another

….Respondents

HON'BLE SRI JUSTICE V.

ESWARAIAH

WRIT PETITION NO. 3926 OF 2007

ORAL ORDER:

Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

Petitioner questions the impugned order dated 28.9.2006 of the second respondent in seeking to attach the bank account for recovery of a sum of Rs. 1, 13,000/- from out of the account of the petitioner maintained with the Andhra Bank, Kasibugga Branch, Srikakulam District, bearing A/C NO. OCC 389.

The learned counsel appearing for the respondent submits that already demand notices have already issued for recovery of the said amount and recovery certificate has also issued, therefore, it is not possible for the respondent now to turn around and say not to recover the amount from out the bank account of the petitioner.

It is not in dispute that coverage under ESI Act was confirmed and the petitioner will come under the coverage of ESI Act and therefore, they required to submit returns of the contribution from 1.12.1998 to 31.3.1999, wherein an amount of Rs. 49,264/- was remitted. The said order passed under Section 45(A) of the ESI Act under proceedings AP/Ins.VI/52-16420-101 dated 19.4.2000, was questioned before the Employees Insurance Court, Hyderabad, and the said court granted stay of payment of Rs. 12,320/- and ultimately, the said case was dismissed on 31.10.2003 in EIC No. 79 of 2000. Thereafter, as the said demand notice has become final the impugned order has been issued. Admittedly, against the original demand notice as well as the impugned order passed under Section 45-G, the petitioner has got an alternative remedy of appeal under Section 75 of the ESI Act.

Accordingly, the Writ Petition is disposed of directing the petitioner to avail an alternative remedy available under the Act, and if any such appeal is filed within two weeks from the date of receipt of a copy of this order, there shall be stay of recovery on depositing half of the demanded amount after excluding the amounts already deposited, till the disposal of the appeal. No order as to costs.

V. ESWARAIAH, J

Date: 06.03.2007
KA

Note: Furnish copy in two days.